

# EXHIBIT E

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

FEDERAL TRADE COMMISSION,

Case No. 3:23-cv-02880-JSC

Plaintiff,

## **DECLARATION OF SCOTT DUBOIS**

V.

Judge: Hon. Jacqueline Scott Corley

MICROSOFT CORP.,

8 | and

9 ACTIVISION BLIZZARD, INC.

## Defendants.

1                   **DECLARATION OF SCOTT DUBOIS**

2       1. My Name is Scott Dubois. I am over 21 years of age, and I am competent to make  
 3 this declaration. The statements herein are true and within my personal knowledge unless stated  
 4 otherwise.

5       2. I make this declaration to demonstrate why I should be permitted to receive and  
 6 review all Confidential Material described in the Protective Order. It is essential that I be provided  
 7 access to this information in order to use my knowledge of the company to assist outside counsel  
 8 in formulating a defense in this action and to provide fully informed legal advice to the company.

9       3. I am currently Senior Director of Regulatory and Public Policy Law at Activision  
 10 Blizzard, Inc. (“Activision”). I am an attorney licensed to practice law in the states of  
 11 Massachusetts and California. My role at Activision is to supervise regulatory matters as in-house  
 12 counsel, including all regulatory review and pending or threatened litigation related to mergers  
 13 and acquisitions. I am not involved in any competitive decision-making at Activision.

14      4. I do not participate in any decisions about formulating or implementing strategies  
 15 to compete with our competitors or any decisions about content development, content distribution,  
 16 or strategic partnerships. I am not involved in decisions concerning pricing of Activision content,  
 17 marketing, content design, content production, platform relationships or other competition-related  
 18 issues that are the subject of Confidential Material in this case.

19      5. This case arises out of the proposed acquisition of Activision by Microsoft Corp.  
 20 (“Microsoft”) (the “Proposed Transaction”). After the parties signed their merger agreement, they  
 21 submitted notification of the transaction to the Federal Trade Commission (the “Commission” or  
 22 “FTC”). Thereafter, the Commission issued a request for additional documents and information.  
 23 Subsequently, the Commission commenced an administrative action challenging the Proposed  
 24 Transaction which resulted in the production of more documents and information. Additionally,  
 25 the Proposed Transaction resulted in regulatory review abroad by the European Commission (the  
 26 “EC”) and the United Kingdom Competition and Markets Authority (the “CMA”), both of which  
 27 initiated independent administrative actions.

1       6. I am an in-house attorney who was involved in the collection of information in  
2 response to the Commission's requests and advised the company during the Commission's  
3 investigation and subsequent administrative action. Additionally, I was involved in the collection  
4 of information in response to the EC and CMA's requests, and also advised the company during  
5 the EC and CMA's administrative actions. I was actively involved in the preparation of  
6 Activision's employees for investigational and administrative hearings by the FTC, EC, and CMA  
7 and attended certain of the investigational and administrative hearings of Activision employees in  
8 my capacity as in-house counsel at Activision. Therefore, I am one of only a few individuals with  
9 the company who has comprehensive knowledge of the transaction and the proceedings which  
10 have transpired to date with the Commission, as well as the other administrative actions related to  
11 the Proposed Transaction.

12      7. In order to respond to the Commission's allegations in this case, Activision must  
13 collect and analyze information from all levels of the company concerning its operations, content  
14 development strategies, platform partnerships, its responses to competitors, the entities it considers  
15 its competitors and why, and the witnesses, data, and documents it has available. While I do not  
16 participate in decisions concerning competition, I am one of the in-house lawyers most familiar  
17 with the company, and I know where that information can be found. Further, if I am informed  
18 about the factual assertions made by the Commission, I can use my detailed knowledge of the  
19 company and my experience in the industry to help our outside counsel develop a response and  
20 collect the information needed for that response. Although our outside counsel knows a great deal  
21 about Activision, they do not have the in-depth experience that I do of the company and the  
22 industry, and my knowledge and assistance will be essential to help outside counsel defend this  
23 case. Unless I am able to review all Confidential Material in this matter, Activision will be  
24 severely limited in its ability to defend itself fully in this action.

25      8. In addition, it is essential that I be allowed to have access to all Confidential  
26 Material in order to be an active member of the trial team and in order to provide informed legal  
27 advice to Activision. The resolution of the Commission's lawsuit is of paramount importance to  
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1 Activision, and in order to provide informed legal advice to the company, I would require access  
2 to all information relevant to this matter, including confidential information. Because I understand  
3 the company, the industry, and the questions and concerns of our management, I am more able  
4 than outside counsel to advise the company about the arguments being raised, the strength of the  
5 arguments, and the strength of the evidence in terms that the business executives can understand.  
6 Of course in providing that advice, I would not disclose the confidential information itself.

7       9. With the understanding that I would not use its confidential information for any  
8 improper use, Microsoft has consented to my having access to such information pursuant to the  
9 terms of the Protective Order.

10      10. I acknowledge and agree that I am subject to the jurisdiction of this Court and to its  
11 contempt powers. I agree to remain subject to the Court's jurisdiction at all times, including after  
12 this litigation is concluded.

13      11. I further represent that I will not make use of any Confidential Material, directly or  
14 indirectly, for any purpose other than the defense of this action.

15       I declare under penalty of perjury under the laws of the United States of America that the  
16 foregoing is true and correct.

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1 Executed on June 19, 2023, in Los Angeles, California.

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*/s/ Scott Dubois*

4 Scott Dubois

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570 *Counsel for Activision Blizzard, Inc.*

1                   **SIGNATURE ATTESTATION**

2                   Pursuant to Civil Local Rule 5-1(h)(3), I attest under penalty of perjury that  
3 concurrence in the filing of this document has been obtained from any other signatory to  
4 this document.

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6 Dated: June 19, 2023

*/s/ Caroline Van Ness*  
Caroline Van Ness

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